

THE LEGISLATIVE ASSEMBLY.

Fifty-ninth Day.

WEDNESDAY, AUGUST 13.

The House met at 10 o'clock, the President, Hon. W. R. Castle, in the chair. Absent: Ministers Green, Austin, Thurston; Nobles Robinson, Dowsett, Jaeger, Wall, Townsend, Campbell, Widemann, Makee and Bertelmann; Reps. Dowsett, Kalakaua, Kaula, Deacon, Kinney, Maguire, Horner and Gay. Minutes read and confirmed.

NEW BILL.

Minister Ashford read, a first time, by title, the bill given notice of yesterday, in the majority report of the Committee on the bill relating to the practice of dentistry.

REPORT OF COMMITTEE.

Rep. F. Brown reported two bills printed.

THE APPROPRIATION BILL.

The House went into committee of the whole, Rep. C. Brown in the chair, to take up consideration of the Appropriation bill, resumed from July 20th.

Permanent settlement, J. O. Dominis, \$3,600. Rep. Nakaleka moved the item be stricken out. If the Government wish to provide for Governor Dominis, they can make him tax assessor for one of the islands. They need have no difficulty in providing for him.

Rep. Paeahoale said that in the discussion of this question in 1887, much had been said about Governor Dominis's long period of service. He had presented a petition on behalf of Daniel Napela, an aged teacher who had served the public well and faithfully in his line, for 37 years. Members were opposed to that petition, as they said, on the principle of the thing. The principle they maintained then, they are against now. He could not see the justice of voting a permanent settlement to Governor Dominis on account of his being a white man and refusing to go to Napela on the ground of his being a native.

Noble Smith said if Napela was the husband of the Heir Apparent, he would probably vote for his receiving a pension. Governor Dominis had suffered greatly from illness. It would be ridiculous to the country if he were reduced to beggary because of his physical infirmities.

The ayes and noes were taken on the motion to strike out, as follows:

Ayes—Waterhouse, Lubian, Richardson, Naone, Kaula, C. Brown, F. Brown, Kamae, Kinney, Kamaoaha, Paris, Nawahine, Daniels, Rice, Nakaleka, Kapeahoale—16. Noes—Green, Thurston, Ashford, Robinson, Young, Smith, Foster, Wright, Noley, Wall, Townsend, Hitchcock, Baldwin, Bailey, G. N. Wilcox, Dole, Huestace, Deacon, Kaula, Helekuini, Kawainui, A. S. Wilcox—22.

The item passed. Salaries of Circuit Judges and travelling expenses, deferred.

District Judges, Kau, \$1,200, and East Kau, \$900, passed.

Repairs to wharves, landings and buoys, Maui, \$2,500, passed.

Pay of Road Supervisor, Honolulu, \$3,000, passed.

Expenses of Election, \$6,500, passed.

Salary Auditor-General, \$10,000, passed.

Salary of three Pilots, Honolulu, \$18,375, struck out.

Pay of Police, Hawaii, \$53,000; Maui, \$43,000; Oahu, \$83,000; Kauai, \$21,500, passed.

Incidentals, Civil and Criminal expenses, \$15,000. Passed as recommended by the select committee appointed July 11, and reported July 25, \$15,000.

Noble Castle moved to insert: For expenses of suits relative to lands called undivided lands, and Government claims in lands, \$3,000. Passed.

The Committee rose; the House resumed and took the usual noon recess.

Afternoon.

The House re-assembled at 1 o'clock, and went into Committee of the Whole, Noble Waterhouse in the chair, on the Appropriation bill.

English and Hawaiian common schools, \$115,000.

Noble Townsend said the Acts passed abolishing tuition fees would necessitate a larger item under this head. From estimates made by the Committee on Education, he would move this item be \$146,000. Passed.

Noble Baldwin said he had an application to make for \$2,500 for the East Maui Female Seminary.

Minister Thurston said this seminary was one of the best educational institutions in the Kingdom, but he would be compelled, on general principles, to oppose the item. It might open the way to embarrassing applications, in future, for government support of sectarian schools.

Referred to the Committee on Education.

Building and repairs of school-houses, \$22,000.

Noble Townsend moved this item be \$45,000. The reasons are similar to those advanced regarding schools.

Rep. C. Brown moved the item pass as in the bill.

Minister Thurston moved the matter be referred to the Education Committee to obtain definite information. Carried.

Claim of E. C. Fishbourne, \$194. Reported on by the Finance Committee, July 14th. Passed.

Minister Thurston moved to insert, return of duties paid on articles for furnishing a church (Father Damien's) at Kala-wao, \$103. Passed.

Punchbowl hill road, \$3,000.

Noble Townsend moved the item be struck out.

Rep. Kinney moved it pass.

The item was discussed by the Minister of Interior, Nobles Townsend, Baldwin, and Smith, Reps. Kinney, Nakaleka and Kamaoaha.

The motion to strike out was lost, 13 to 22.

The item passed, on the following division:

Ayes—Green, Austin, Thurston, Ashford, Robinson, Young, Jaeger, Castle, Waterhouse, Baldwin, Richardson, G. N. Wilcox, Dole, Huestace, Naone, Deacon, Kinney, Kaula, Kamaoaha, Daniels, A. S. Wilcox, Rice—22.

Noes—Lubian, Wright, Noley, Wall, Townsend, Bailey, Kaula, Kamae, Paris, Nawahine, Helekuini, Kawainui, Nakaleka, Paeahoale—14.

Water works, Koloa, \$4,000, passed.

Water works, Wailuku, \$20,000, passed.

Noble Baldwin moved to insert, road, Makawao to Haleakala, \$3,000.

Noble Wright said he thought this Legislature had caught the fever of all its predecessors. One principle of reform was that the liabilities should not exceed the assets.

Noble Smith—It depends upon whose ox—how about the Waipio road?

Noble Wright—The Waipio road is a necessity. This is for tourists. The Kohala people are so public spirited that they were thinking of building the Waipio road themselves.

Noble Richardson said this idea about coming the Appropriation bill within the limits proposed by the Government was very well, but the honorable Noble from Kohala had set the ball rolling. Now, after he got what he wanted, he would like to shut others out. Maui has been very moderate in her demands. This proposed road is for the public benefit and not for tourists alone.

Rep. Kaula said if it is intended to pay \$2,000 for people to get up to the top of Haleakala to see the sun rise, Ewa objects to it. The next we shall hear will be that

members having no high mountains in their districts will be applying for the building of towers for their constituents to get up to see the sun revolve its course through the sky.

Noble Richardson moved the item read: Improving the road from Makawao to Kaupo and Kipahulu by way of Haleakala, \$5,000. Lost.

The item, as moved by Noble Baldwin, was inserted.

The Committee rose and the House resumed.

BILLS READY FOR APPROVAL.

Minister Austin reported three bills presented to the King for signature.

ACTS APPROVED.

Minister Austin reported the following five Acts signed by His Majesty:

To re-establish the Commission for the Settlement of Boundaries.

To amend Section 191 of the Civil Code, as amended by Chapter XXVI. of the laws of 1888, relating to water rates.

To amend Section 6 of Chapter XI. of the Penal Code (relating to seduction).

To prohibit the Collection of Tuition Fees in certain Government schools.

To authorize the establishment of select schools in this Kingdom and to authorize the collecting of tuition fees therein.

The House adjourned at 4:05 to 10 o'clock Thursday morning.

Sixtieth Day.

THURSDAY, AUG. 9.

The House met at 10 o'clock, the President, Hon. W. R. Castle, in the chair. Absent: Ministers Green, Austin, Thurston and Ashford; Nobles Robinson, Dowsett, Young, Jaeger, Smith, Townsend, Baldwin, Bailey, Campbell, Widemann, Makee, Wilcox, Bertelmann and Dole; Reps. Huestace, Dowsett, Kalakaua, Kaula, F. Brown, Kinney, Maguire, Kaula, Paris, Daniels, Horner, Gay and Nakaleka.

REPORTS OF COMMITTEES.

Rep. Kawainui reported two bills printed.

Noble Richardson read the report of the committee appointed on the Protection of Fish bill, recommending amendments.

Laid on the table to be considered with the bill.

LEAVE OF ABSENCE.

Rep. C. Brown asked leave of absence for two weeks. Granted.

QUESTIONS TO MINISTER.

Noble Richardson asked the following of the Minister of Foreign Affairs:

1. Has any complaint been made by the Japanese Government through its representatives as to the Japanese being excluded from the right to vote for representatives to the Legislature?

2. If so, what answer has been returned to such complaint?

3. Will the Government lay copies of the correspondence on the table?

ORDER OF THE DAY.

Pounds, etc.—Third reading of the bill: to amend and consolidate the law relating to pounds, estrays, brands and marks. Passed.

Bail.—Third reading of the bill: amending Section 2 of Chapter L. of the Penal Code relating to bail. Passed.

Optium.—Third reading of the bill: to regulate the importation and sale of optium in this Kingdom. Referred back to Enrollment Committee to be re-translated.

Recess, at 11:50, one hour.

Afternoon.

Re-assembled at 1 o'clock. A quorum was had at 1:12.

THE ELECTION BILL.

The House went into Committee of the Whole, Rep. F. Brown in the chair, on the Election bill.

A commission, consisting of the Hon. W. R. Castle, F. H. Hayselden and J. E. Bush, was appointed by a resolution of the Legislature of 1888, adopted September 16th, to revise the election laws of the Kingdom. Noble Castle presented the report of the commission on the 6th of last June with a draft of a new election law. This new bill was referred to a special committee, June 15th, consisting of Nobles Castle and Smith, the Attorney-General, Rep. C. Brown and the Minister of the Interior. Upon Noble Castle being elected President, June 22d, Noble Hitchcock was appointed, in his stead, on the election law committee. Special committee reported, with a revised and amended bill, on the 7th inst.

The revised bill was taken up section by section.

Sections 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 17, 18, 20, 21, 22, 23, 24, 27 and 28 passed as in the bill.

Section 9 was amended by changing "Island of Kauai" to "Islands of Kauai and Niihau."

Section 14 was amended by inserting "Wailuku District and" instead of the word "crest" in line 10; striking out the words, "of Hamakua and Haiku" in lines 13 and 14, and inserting in place of them the words, "and west of Haleakala Gulch; also striking the words "and Honouliuli" from the 14th line.

Section 15 was deferred.

Section 16 was amended by inserting in line 3, the words, "Punaiaia Point to and including" instead of "and excluding."

Section 17 was amended by inserting "Punaiaia Point" instead of "Kalaia."

Section 19 was amended by substituting "hold office" for "continue."

Section 25 was amended by adding to it the words, "provided, however, that the requirements of being domiciled in the Kingdom for one year immediately preceding the election, and of knowing how to read and write, either the English, Hawaiian or some European language, shall not apply to persons residing in the Kingdom at the time of the promulgation of the Constitution, if they registered and voted under the first election which was held under the same."

Section 29 was deferred.

Section 30 had a verbal amendment entered.

RESOLUTION.

Minister Thurston moved that the tax assessors and collectors bill be a special order for Friday. Carried.

INVITATION TO A BALL.

The President read an invitation to members to attend a ball at the Hawaiian Hotel on Friday evening to be given in honor of the Captain and officers of the U. S. S. Omaha.

The Clerk was, on motion, directed to acknowledge the communication, with thanks.

At 4:35, the House adjourned to 10 o'clock, Friday morning.

Sixty-first Day.

FRIDAY, AUG. 10.

The House met at 10 o'clock, a. m., the President, Hon. W. R. Castle, in the chair. Absent: Ministers Green, Austin, Thurston and Ashford; Nobles Robinson, Dowsett, Jaeger, Smith, Foster, Wall, Campbell, Widemann, Makee, Wilcox, Bertelmann; Reps. Huestace, Dowsett, Kalakaua, Kaula, Kinney, Maguire, Kamaoaha, Horner, Gay. Minutes read and confirmed.

Noble Hitchcock moved the following: Resolved, that on and after Monday next,

August 13, the daily sessions of this House commence at 9 o'clock a. m. Adopted.

ORDER OF THE DAY.

Security for Depositors.—Third reading of the bill, giving security to depositors in the Hawaiian Postal Savings Bank. Passed.

Tax Assessors and Collectors.—Second reading of the bill, introduced by Minister Green, July 21, to amend and regulate the law relating to the appointment and tenure of office of tax assessors and collectors, and the assessment of taxes. Taken up section by section, with the report of select committee, 7th inst., thereon.

Section 1 divides the Kingdom into four districts, (1) Oahu, (2) Maui, Molokai, Lanai and Kahoolawe, (3) Hawaii, (4) Kauai and Niihau.

Section 2 requires the appointment, on or before April 1, 1889, of an Assessor of taxes, for each taxation district.

THE SECOND VETO MESSAGE.

The following was delivered to the President by a messenger from the King, and read to the House:

To the Hon. W. R. Castle, President of the Legislative Assembly of the Kingdom.

Sir—The bill entitled "An Act to regulate the keeping of books of account by wholesale and retail license," has been submitted for my approval, and I return the same without my signature for the following reasons:

Firstly, Section II. of the Act is in contravention of Article 12th of the Constitution.

Secondly, The Act is in contravention of Article 13th of the Constitution.

Thirdly, The Act subjects persons to penalties for dereliction which it may not be in their power to avoid. Such an Act is not only unreasonable and impartial, but oppressive and in restraint of commerce.

Done at our Palace at Iolani Hale on this 7th day of August, A. D. 1888.

KALAKAUA REX.

Laid on the table to be considered after the special order of the day.

ORDER OF THE DAY.

Resumed consideration of the tax assessor's bill, at Section 2.

Noble Smith moved to amend by adding, after the word "Cabinet" in line 1, the following: "upon the nomination in writing of a majority of the Nobles of each taxation division."

Noon recess, one hour.

Afternoon.

Re-assembled at 1 o'clock.

Consideration of the tax assessor's bill, continued. The amendment proposed by Noble Smith was discussed by the mover and Rep. Kaula, for; the Attorney-General, Minister of Interior and Noble Young, against.

Noble Hitchcock would like to see assessors elected in the districts where they are to serve. He moved an amendment, to insert in line 2, "and Collector" after the word assessor.

F. Brown moved that the section read, as follows:

Section 2. The selection of the Assessor and Collector of taxes for each taxation division, shall be by ballot, cast by the members of the Legislature, in session assembled, and such assessor so selected shall hold office until his successor is elected by the said body.

Rep. Kaula took the floor and spoke at great length. Members resorted to the lobbies. "No quorum" was called several times.

Noble Young moved the "previous question." Members swarmed in and carried the motion.

Rep. Brown's and Noble Smith's amendments were lost.

Noble Hitchcock's amendment was adopted, as follows:

Section 2. The Minister of Finance, with the approval of the Cabinet, shall on or before the first day of April, 1889, appoint an Assessor and Collector of taxes, hereinafter called the Assessor, for each taxation division of the Kingdom.

Section 3 passed, minus the word "who," as in the bill.

Section 4. Noble Smith moved to strike out of line 4, the words, "and Collectors." Lost.

Passed as in the bill.

Sections 5 and 6 passed as in the bill.

The committee recommended striking out of the 7th Section, the word "real," in the fifth line, and the insertion of the words, "in his opinion, after 'shall' in the third line. Adopted.

Rep. Deacon moved to insert, after "estate," in the fifth line, the words "or personal property." Withdrawn.

Rep. Kamaoaha moved to amend by substituting for \$20,000 "the total amount of the taxes in all the districts on the basis of the taxes collected in 1885." Lost.

RESOLUTION.

Minister Ashford moved that the House return to the order of business, "Resolutions." Carried.

Minister Ashford then moved the following: Resolved, That the reconsideration of bill No. 70, being "An Act to regulate the keeping of books of account by wholesale and retail license," this day returned to this House without His Majesty's approval, be proceeded with forthwith.

Resolved, That the reconsideration of this House without His Majesty's approval, be set for the 15th inst. Lost.

Minister Ashford's resolution was adopted.

The message was read in English by the Clerk and in Hawaiian by the Interpreter.

Noble Smith asked if any statement had been made by the Ministers relative to this matter. He was not present in the forenoon when the message was received. Before proceeding further he thought some statement should be heard from Ministers, if none had already been made. He would like to be informed as to the advice given to His Majesty by the Cabinet.

Minister Thurston said that after the first veto, the Ministers had presented the King with their views and conveyed to him what they believed to be the views of the House. They advised him distinctly and urgently, though respectfully, after learning that he had it in mind to veto this Act, not to take that course without consulting with the Ministers, who would be ready to confer with him at any time.

He advised him that such a course would have the effect of bringing him into conflict with the Legislature and would therefore be derogatory to the dignity of the Sovereign.

Rep. Kamaoaha asked the Attorney-General and Ministers for their opinions on the veto message. They said forth in the veto message.

Minister Ashford said the objections, on constitutional grounds, are not well founded. The obligation to keep books in the prescribed languages, under this Act, would, in the terms of the license, be a matter of open contract. Persons applying for licenses would know the terms beforehand. Similar laws are in operation in other countries. German firms doing business in England keep their books in English, and English firms in Germany keep their books there in German. The provision by which officers of government are authorized to enter a licensee's place of business and see his books had a precedent in the optium license Act of 1886. No search can be unreasonable that is previously bargained for and agreed to.

The objection based on Article 13 of the Constitution is of no force. Article 13 has no more bearing on the Act than has the article providing for liberty of worship.

Rep. Kamaoaha said that having heard the matter cleared up satisfactorily, he would vote for the passage of the Act.

Noble Baldwin thought the explanations of the Attorney-General good and sound. The case has been as fully discussed as necessary. He would not move the previous question, but would call "ninau."

The ayes and noes were taken on the question, "Shall this Act become a law notwithstanding the Veto of the King?"

and was decided in the affirmative on the following division:

AYES.	NOES.
Nobles—	Reps.—
M. P. Robinson	A. Kaula
Alex. Young	J. Nakaleka
W. R. Castle	
A. Jaeger	Total
W. H. East	2
W. O. Smith	
Hy. Waterhouse	
W. E. Foster	
S. C. Lubian	
James Wright	
Chas. Wall	
H. S. Townsend	
H. P. Hitchcock	
H. P. Baldwin	
E. H. Bailey	
John Richardson	
P. N. Makee	
G. N. Wilcox	
G. H. Dole	
Rep.—	
Frank Huestace	
A. P. Kalakaua	
D. Naone	
Frank Brown	
Henry Deacon	
D. Kamae	
W. A. Kinney	
J. Kaula	
G. P. Kamaoaha	
J. P. Paris	
O. Nawahine	
W. H. Daniels	
E. Helekuini	
J. U. Kawainui	
A. S. Wilcox	
W. H. Rice	
A. P. Paeahoale	
Total	39

The President—This Act will therefore become a law.

Noble Waterhouse moved the House adjourn to 10 o'clock Saturday morning. Carried.

Supreme Court of the Hawaiian Islands.—In Banco. July Term, 1888.

KEAMALU VS LUHAU ET AL., EJECTMENT.

JUDG. C. J., M'CULLY, PRESTON, HICKERTON, DOLE, J. J.

Opinion of the Court by BICKERTON, J.

This is a suit in ejectment, and came on for trial at the April Term, 1888, before Mr. Justice Dole and a jury, resulting in a verdict for plaintiff for half the land claimed; to which verdict the defendant duly excepted as contrary to the law and the evidence, and the weight of evidence.

The request for instructions by defendant marked Second, Fourth and Fifth, being refused by the Court, the defendant duly excepted and the same were allowed.

The defendant also excepted to the instructions to the jury, that "If Luhan during the period of his alleged adverse possession applied to the Court of Probate for letters of administration with a view of ascertaining who were the heirs of Polani, the application would in itself break the chain of adverse possession."

"That would be giving up his adverse possession to the Court to decide, and this would be so, even though in the application for administration the applicant Luhan stated that he and his cousin Lukahili were the only heirs of Polani (w.)," to which instructions the defendant duly excepted, and the exception was allowed; and the matter now comes here on a duly allowed Bill of Exceptions.

By the Court: The first instruction asked for and refused, by the Court, and marked "Second Instruction," is as follows:

"No person shall commence an action to recover possession of any lands, or make any entry thereon, unless within twenty years, after the right to bring such action first accrued. And this law would bar the plaintiff if continuously during twenty